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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/016,852

12/13/2001

Rodger H. Rast

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01/06/2004

RASTAR CORPORATION
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GOLD RIVER, CA 95670-4484

EXAMINER

TOOMER, CEPHIA D

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,852

Applicant(s)

RAST ET AL.

Examiner

Cephla D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 37-56 is/are pending in the application.
- 4a) Of the above claim(s) 15-30, 37-50 and 54-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 51-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Claims 15-30, 37-50 and 54-56 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the Paper dated November 28, 2003.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4, 13, 14 and 51-53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 2, 13, 14 and 51, the term "predetermined" is indefinite. Who determines the shape of the firelog and how does one predetermine the amount of combustion? Clarification and correction are required.

In claim 3, lines 2 and 3 are duplicates. Also, there is no antecedent support in claim 1 for "the consumer."

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Chandaria (U 5,958,090).

Chandaria teaches a firelog that may be severed or snapped apart and burned as separate parts (see abstract; Figs 2, 3 and 4; claims 6-12).

Accordingly, Chandaria teaching all the limitations of the claim, anticipates the claim.

7. Claims 1, 5, 6, 9, 11, 14 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Altman (US 4,272,252).

Altman teaches a firefighting device comprising a block of cellulosic fibrous material sealed in an envelope. The block has saw cuts that extend through the block so that the block can be easily broken (see abstract; col. 2, lines 41-52). The block is soaked in mineral spirits. The envelope is made of cellophane laminated with polyethylene wherein the polyethylene acts to retard the burn rate of the cellophane (see col. 1, line 62 through col. 2, lines 1-3).

Accordingly, Altman teaching all the limitations of the claims, anticipates the claims.

8. Claims 1, 5, 6, 9, 10, 11 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Kincaid (US 4,243,394).

Kincaid teaches an artificial firelog of pie segment shape wherein one side of the log may contain a fire retardant (see abstract). The fire retardant may be in or on the wrapper (see col. 3, lines 32-39) or the fire retardant may be applied to the firelog per se (see col. 3, lines 40-51).

Accordingly, Kincaid teaching all the limitations of the claims, anticipates the claims.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burton (US 4,060,396).

Burton teaches a log of compressed wood wherein the log is designed with interlocking disc-shaped wafers (see abstract). The log may be of any length and is easily broken down into individual wafers as for stoker fuel or to provide different amounts of combustion (see col. 1, lines 63-65).

Burton teaches the limitations of the claims other than that the log is contained in a wrapper and that the wrapper may be segmented along with the firelog. However,

since Applicant has set forth the claims in Jepson form, it is implied that the preamble of the claim is the prior art and that the prior art teaches a wrapper. Thus, to segment the wrapper in the same manner as the log is merely an aesthetic design choice to appeal to the consumer's eye and also to allow the segmented wrapper to be used as a fuse for each segmented piece of firelog.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Altman (US 4,272,252).

Altman has been discussed above. Altman teaches the limitations of the claims other than the segmented wrapper. However, to segment the wrapper in the same manner as the log is merely an aesthetic design choice to appeal to the consumer's eye and also to allow the segmented wrapper to be used as a fuse for each segmented piece of firelog.

12. Claims 2-4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kincaid.

Kincaid had been discussed above. Kincaid fails to teach perforations in the shield and partial removal of the shield. However, it would have been obvious to perforate the sheath of Kincaid (shield) because Kincaid teaches that when the sheath is attached to the log a portion of the sheath is unattached and forms an air gap on the log. This would be equivalent to having perforations in the sheath allowing air to form between the sheath and the log. This would also allow a portion of the sheath to be removed.

Kincaid fails to specifically teach having a pull-cord or equivalent attaches to the sheath; however, it would have been obvious to one of ordinary skill in the art to have used the unattached portion of the sheath as a pull-cord to remove the sheath.

13. Claims 7, 8, 52 and 53 rejected under 35 U.S.C. 103(a) as being unpatentable over Kincaid as applied to claims above, and further in view of Comas (US 6,508,849).

Kincaid fails to teach that the fire retardant layer is a metallic foil less than 30 mils thick. However, Comas teaches this difference. Comas teaches a flame retardant aluminum sheet having a thickness varying between 0.235-0.350 micrometers (see abstract; col. 3, lines 19-37).

It would have been obvious to one of ordinary skill in the art to have used a metallic foil material as a combustion shield because Kincaid teaches using a fire retardant sheath and Comas teaches that metallic foil is a material suitable for retarding the burning of the combustible matter. See MPEP 2144.07.

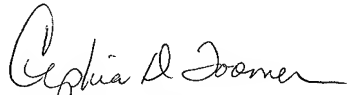
14. The prior art made of record and not relied upon is cited for teaching firelogs and is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in cursive script, reading "Cepha D. Toomer". The signature is written in dark ink and is positioned above the printed name and title.

Cepha D. Toomer
Primary Examiner
Art Unit 1714

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